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TRANSPORTATION BOARD

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BEFORE THE SURFACE TRANSPORTATION BOARD
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C. 20423

FINANCE DOCKET NO. 35493

TEXAS DEPARTMENT OF TRANSPORTATION—ACQUISITION EXEMPTION--
LINE OF UNION PACIFIC RAILROAD COMPANY IN FANNIN COUNTY, TX

VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 C.F.R. § 1150.31

Pursuant to 49 C.F.R. § 1150.31, et seq., the Texas Department of Transportation ("TxDOT") hereby files its Verified Notice of Exemption to acquire 1.28 miles of Union Pacific Railroad Company's ("UP") Bonham Subdivision that extends from Mile Post 127.5 to Mile Post 128.78. As part of the transaction, TxDOT will grant trackage rights to Mid-Michigan Railroad, Inc., d/b/a Texas Northeastern Railroad, which will assume the common carrier obligation, with TxDOT retaining the residual common carrier obligation.

INFORMATION REQUIRED BY 49 C.F.R. § 1150.33

- (a) The full name and address of the applicant:

Railroad Division
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701
(512) 486-5230 phone
(512) 416-2348 fax

ENTERED
Office of Proceedings

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- (b) The name, address, and telephone number of the representative of the applicant who should receive correspondence:

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.

FILED

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**SURFACE
TRANSPORTATION BOARD**

Washington, D.C. 20016
(202) 363-2011

(c) A statement that an agreement has been reached or details about when an agreement will be reached:

TxDOT has reached an agreement with UP whereby TxDOT will acquire UP's right, title and interest in certain personal and real property located in Fannin County, Texas, extending 1.28 miles from Mile Post 127.5 to Mile Post 128.78. In Finance Docket No. 34834, *Texas Department of Transportation—Acquisition Exemption—Line of Union Pacific Railroad Company in Lamar and Fannin Counties, TX*, TxDOT previously acquired UP's interests in the Rail Line that extended from Mile Post 94.0, located at Paris, Texas, to Mile Post 127.5, near Bonham.

(d) The operator of the property:

As part of the transaction, TxDOT will acquire the common carrier obligation and will retain the residual common carrier obligation when, following consummation of the underlying transaction, TxDOT will grant trackage rights to Texas Northeastern Railroad ("TNER") to perform freight rail service between Mile Post 127.5 and Mile Post 128.78. A Verified Notice of Exemption is being filed concurrently. See, STB Finance Docket No. 35494, *Mid-Michigan Railroad, Inc., d/b/a Texas Northeastern Railroad—Trackage Rights Exemption—Texas Department of Transportation*. In addition, TxDOT will enter into an Agreement with the Fannin Rural Rail Transportation District ("FRRTD") that permits FRRTD or its operator to conduct tourist passenger train operations between Mile Post 94.0 and Mile Post 128.78.

(e) A brief summary of the proposed transaction, including:

- (1) The name and address of the railroad transferring the subject property,
- (2) The proposed time schedule for consummation of the transaction,
- (3) The mile-posts of the subject property, including any branch lines, and
- (4) The total route miles being acquired.

The trackage is being acquired from UP. UP's address is 1400 Douglas Street, Omaha, Nebraska 68179. The transaction will be consummated after the Board approves TxDOT's acquisition. The Mile Posts of the subject property are from 127.5 to Mile Post 128.78 of UP's Bonham Subdivision. A total of 1.28 route miles is being acquired.

(f) A map that clearly indicates the area to be served, including origins, termini, stations, cities, counties, and States.

See attached.

(g) A certificate that applicant's projected revenues do not exceed those that would qualify it as a Class III carrier.

TxDOT hereby certifies that projected revenues do not exceed those that would qualify it as other than a Class III carrier. TxDOT further certifies that projected revenues are less than \$5 million. Therefore, no notice is required pursuant to the provisions of 49 C.F.R. § 1150.32(e).

(h) Transactions imposing interchange commitments.

The proposed transaction does not involve a provision or agreement limiting future interchange with a third-party connecting carrier as described in 49 C.F.R. § 1150.33(h).

A caption summary as required by 49 C.F.R. § 1150.34 is filed herewith.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R.H. Streeter", written in a cursive style.

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.
Washington, D.C. 20016
(202) 363-2011

Dated: June 3, 2011

VERIFICATION

I, Amadeo Saenz, Jr., P.E., Executive Director, Texas Department of Transportation, verify under penalty of perjury that the information contained in the foregoing Verified Notice of Exemption is true and correct to the best of my knowledge, information and belief. I further certify that I am qualified and authorized to file this Verified Notice of Exemption.

A handwritten signature in cursive script, reading "Amadeo Saenz", is written over a horizontal line. The signature is fluid and stylized, with a large initial 'A' and a long, sweeping tail that extends to the right.

Exhibit A

Map

Fannin County Rural Rail District



BEFORE THE SURFACE TRANSPORTATION BOARD
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C. 20423

FINANCE DOCKET NO. 35493

TEXAS DEPARTMENT OF TRANSPORTATION—
ACQUISITION EXEMPTION—LINE OF UNION PACIFIC
RAILROAD COMPANY IN FANNIN COUNTY, TX

Texas Department of Transportation has filed a notice of exemption pursuant to 49 C.F.R. § 1150.31, to acquire 1.28 miles of Union Pacific Railroad Company's ("Seller") Bonham Subdivision from Mile Post 127.5 to Mile Post 128.78.

Comments must be filed with the Board and served on Richard H. Streeter, 5255 Partridge Lane, N.W., Washington, D.C. 20016. This proceeding is related to STB Finance Docket No. 35494, *Mid-Michigan Railroad, Inc., d/b/a Texas Northeastern Railroad—Trackage Rights Exemption—Line of Texas Department of Transportation in Fannin County, TX*.

This notice is filed under 49 CFR § 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.